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09/998,819	10/25/2001	Edward P. Campbell	01-1014	5915
7590 07/27/2005				
McDonnell Boehnen Hulbert & Berghoff				
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300 S. Wacker Drive				
Chicago, IL 60606				
		EXAMINER		
		MIRZA, ADNAN M		
		ART UNIT		
		PAPER NUMBER		
		2145		

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/998,819

**Applicant(s)**

CAMPBELL ET AL.

**Examiner**

Adnan M. Mirza

**Art Unit**

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-26 are rejected under 35 U.S.C. 102(e) as being unpatentable by Fong et al (U.S. 6,493,328).

As per claim 1,8 Fong disclosed a method for controlling a plurality of communication sessions on a mobile terminal in a communication system, the method comprising: establishing a first communication session at the mobile terminal; sending a signaling message to the mobile terminal indicating a second communication session to be connected to the mobile terminal (col. 2, lines 12-21); determining whether the second communication session is accepted and the first

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communication session is put on hold on the mobile terminal (col. 5, lines 6-15); and, if so, sending a policy management control message to a serving node associated with the mobile node, the policy management control message including instructions to intercept on the serving node a data flow associated with the first communication session (col. 12, lines 46-57), and further to use an existing air interface associated with the first communication session for communicating data associated with the second communication session (col. 12, lines 39-46).

3. As per claims 2,9,14 Fong disclosed a computer readable medium having stored therein instructions (col. 12, lines 64-67).

4. As per claims 3,15 Fong disclosed wherein the data flow comprises a multimedia data flow (col. 3, lines 1-9).

5. As per claims 4,10,16 Fong disclosed wherein the step of intercepting data flow associated with the first communication session comprises intercepting at a serving node the data flow associated with the first communication session (col. 10, lines 9-31).

6. As per claims 5,17,21 Fong disclosed wherein the serving node comprises a packet data serving node (PDSN) or gateway general packet radio service support node (GGSN) (col. 13, lines 53-60).

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7. As per claims 6,11 Fong disclosed wherein the existing air interface comprises a plurality of communication channels and switching data flow associated with the second communication session to as existing air interface comprises using an existing communication channel associated with the first communication session for the data flow associated with the second communication session (col. 5, lines 46-65).

8. As per claims 7,12 Fong disclosed wherein the existing air interface comprises a plurality of communication channels and switching data flow associated with the first communication session; using a second communication session to an existing interface comprises: terminating a first communication channel associated with the first communication session (col. 5, lines 5-15); using a second communication channel on the existing air interface for the data flow associated with the second communication session (col. 5, lines 16-24).

9. As per claim 13,18,22 Fong disclosed a method for controlling a plurality of communication sessions on a mobile node, the method comprising: communicating data associated with a first communication session on the mobile node; receiving a first signaling message on the mobile node, the first signaling message indicating a second communication session to be connected to the mobile node (col. 2, lines 12-21); notifying a user of the mobile node about the second communication session, wherein the user is notified using an identifier selected on the mobile node based on a data type associated with the second communication session; determining if the second communication session is accepted by the user (col. 13, lines 52-60); if so sending a second signaling message from the mobile node, the second signaling

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message comprising instructions to put the first communication session on hold and activate the second communication session; intercepting a first data flow associated with the first communication session to the mobile node; and switching a second data flow associated with the second communication session to an air interface associated with the first communication session (col. 11, lines 5-29).

10. As per claim 19 Fong disclosed wherein the air interface comprises a plurality of communication channels, and the network device is configured to a terminate data communication associated with the first communication session to the mobile node and further to switch the second communication session to a communication channel associated with the first communication session (col. 12, lines 51-58).

11. As per claims 20,26 Fong disclosed wherein the air interface comprises a plurality of communication channels, and the network device is configured to a terminate a first communication channels associated with the first communication session and set up a second communication channel over the existing air interface for data communication associated with the second communication session (col. 5, lines 5-15).

12. As per claim 23 Fong disclosed wherein the serving node comprises a packet data serving node (PDSN) or a gateway general packet radio service support node (GGSN), and the mobile node comprises a mobile node comprises a mobile router or a mobile client device (col. 13, lines 53-60).

13. As per claim 24 Fong disclosed wherein the air interface comprises a plurality of communication channels, and the serving node is configured to terminate a first communication channel associated with the first communication session and set up a second communication channel over the existing air interface (col. 13, lines 42-53).

14. As per claim 25 Fong disclosed wherein the serving node further configured to terminate communication of data associated with the first communication session (col. 12, lines 46-58).

### ***Response to Arguments***

Applicant's arguments filed 05/09/2005 have been fully considered but they are not persuasive.

Response to applicant's arguments is as follows.

15. Applicant argued that prior art did not disclose, "establishing a first communication session with a client device and detecting a second communication session to be connected to the client device".

As to applicant's argument, "Fong disclosed, "The method includes transmitting blocks of packetized forward link data to the base stations of high data rate forward link data is transmitted from only one base station of the high data rate forward link active set of base stations to the mobile station (col. 2, lines 12-21)". One ordinary skill in the art at the time of the invention

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knows that establishing a communication session with a client device is interpreted as transmitting blocks of packetized forward link data to the base stations,

16. Applicant argued that prior art did not disclose, “(i) determining whether a second communication session is accepted on a client device and (ii) determining whether a first communication session is put on hold on the client device to communicate data associated with the second communication session”.

As to applicant’s argument Fong disclosed, “In another operation, upon the addition of new base stations to the mobile stations active set of high data rate forward link active of set of base stations, the mobile station sets timer and does not access the new base station until the timer expires. OF course various modification of these techniques may be employed (col. 5, lines 6-15).

17. Applicant argued that prior art did not disclose, “multiple communication sessions that are associated with a mobile node”.

As to applicant’s argument Fong disclosed, “The wireless network determines an active set of base stations that services forward and reverse wireless links with the mobile station according to legacy standard operations (col. 5, lines 32-29).



***Conclusion***

**18. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

**19.** Any inquiry concerning this communication or earlier communication from the examiner should be directed to Adnan Mirza whose telephone number is (571)-272-3885.

**20.** The examiner can normally be reached on Monday to Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin Wallace can be reached on (571)-272-6159. The fax for this group is (703)-746-7239.

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21. The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

(703)-746-7239 (For Status Inquiries, Informal or Draft Communications, please label "PROPOSED" or "DRAFT");

(703)-746-7239 (For Official Communications Intended for entry, please mark "EXPEDITED PROCEDURE"),

(703)-746-7238 (For After Final Communications).

22. Any Inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-305-3900.

Any response to a final action should be mailed to:

BOX AF

Commissioner of Patents and Trademarks Washington, D.C.20231

Or faxed to:

Hand-delivered responses should be brought to 4<sup>th</sup> Floor Receptionist, Crystal Park II,  
2021 Crystal Drive, Arlington, VA 22202.

*AM*

Adnan Mirza

Examiner

*[Signature]*  
JASON CANNONE  
PRIMARY EX 2145